THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.14430 of 2004

ORAL ORDER:

This writ petition is filed seeking Mandamus declaring the order of the first respondent dated 12.6.2004 vide proceedings D.Dis.(E) 250/02 confirming the orders passed by the second respondent in proceedings Rc.E.No.256/00 dated 19.12.2001, wherein the order passed by the third respondent-Revenue Divisional Officer in proceedings Rc.C.1868/89 dated 10.1.2000 canceling the authorization of the petitioner, was confirmed.

It appears, petitioner was the fair price shop dealer of Uchaguntapalem village, Dagadarthi mandal, Kavali Division, Nellore district. While so, his authorization was cancelled by the third respondent-Revenue Divisional Officer vide proceedings dated 10.1.2000. Aggrieved by the same, petitioner carried the matter in appeal before the second respondent-Joint Collector. The second respondent, after detailed consideration of the matter, vide proceedings dated 19.12.2001 dismissed the appeal confirming the orders passed by the third respondent. Aggrieved thereby, petitioner filed revision before the first respondent-District Collector. The first respondent also dismissed the revision vide proceedings dated 12.6.2004 confirming the orders passed by the respondents 2 and 3. Aggrieved by the same, the present writ petition is filed.

It is the contention of the learned counsel for petitioner that except relying on the report of the fourth respondent-Mandal Revenue Officer, practically no independent enquiry was conducted by the third respondent for the purpose of holding the petitioner guilty of charges framed against him. Of course, an explanation was sought for from the petitioner, but the same was not considered by the third respondent and simply held that the explanation offered by the petitioner was not convincing, and except that no

other findings have been arrived by the third respondent. Therefore, the impugned cancellation order passed by the third respondent is in gross violation of principles of natural justice and liable to be set aside. Consequently, the orders passed by the appellate authority and revisional authority are also liable to be set aside.

The learned Government Pleader appearing for respondents strenuously contended that this is a case of cancellation of authorization of the fair price shop dealer and no detailed enquiry need to be conducted. It is being a summary enquiry, on the basis of report of the fourth respondent and on the basis of the explanation submitted by the petitioner, the third respondent has rightly came to the conclusion that the authorization of the petitioner is liable to be cancelled. Therefore, the orders passed by the appellate authority and the revisional authority confirming the cancellation order cannot be said to be either arbitrary or illegal and the same do not call for any interference by this Court under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned order and other material made available on record.

I am of the opinion that absolutely no independent enquiry was conducted by the third respondent before passing the cancellation orders. The whole basis for framing charges against the petitioner seems to be on the basis of the report submitted by the fourth respondent and basing on the same, charge sheet was prepared and explanation was sought for from the petitioner. When the petitioner submitted his explanation denying the allegations, it was the basic duty of the third respondent to conduct a detailed enquiry into the matter and at least should have given opportunity to the petitioner to cross-examine the witnesses who spoke against him before the fourth respondent. Neither oral nor any documentary evidence was placed before the third respondent to come to a conclusion that the

petitioner is guilty of the charges. Simply because, the explanation submitted by the petitioner is not satisfactory, it cannot be said that the charges levelled against the petitioner were proved, without conducting any enquiry. The third respondent is supposed to conduct an independent enquiry into the matter for holding the petitioner guilty or otherwise. No such exercise has been done in this case.

In view of the above, the order passed by the third respondent dated 10.1.2000 is liable to be set aside. Though the appellate authority and revisional authority gave some details on the basis of the report of the fourth respondent, but no independent enquiry has been ordered. Therefore, the orders passed by the respondents 1 and 2 are also liable to be set aside.

In the result, the writ petition is allowed and the order passed by the third respondent dated 10.1.2000, as confirmed by the second respondent vide order dated 19.12.2001 and further confirmed by the first respondent vide order dated 12.6.2004 are set aside. The authorization of the petitioner shall be restored forthwith. However, this will not preclude the authorities from conducting a denova enquiry, if so advised, as per law. No order as to costs.

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C.V.RAMULU, J

Date: 19.12.2006

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THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.14430 of 2004

19.12.2006

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.14430 of 2004

Date: 19th December, 2006

Between:

A.Venkateswarlu

.. Petitioner

And

The District Collector,
Nellore & others.

.. Respondents